REMARKS

The office action and the Crutchfield reference have been carefully considered together with the claims that are pending in this application. It is noted that claims 1-5 have again been rejected under 35 U.S.C. 102(b) as being anticipated by Crutchfield and the remaining claims 6-9 and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Crutchfield in view of von Hollen.

Referring initially to claim 1, Crutchfield fails to anticipate, teach or suggest this claim. Claim 1 claims a control mechanism for a rotary hand tool that includes, *inter alia*, a light touch switch having at least a first position and a second position coupled to said electrical control circuit for selectively enabling or disabling said control circuit to turn the motor on and off wherein the motor current does not flow through said switch. While the examiner now contends in paragraph 4 that Crutchfield meets the claim language and particularly the language "wherein said motor current does not flow through said switch 30" (rather than 28 in the previous rejection), this is again an erroneous statement that is contrary to the explicit description in the Crutchfield patent. It is also noted that the examiner has admitted in paragraph 14 with regard to the rejection of claims 10 and 12 over Crutchfield in view of Peot that "Crutchfield does not distinctly disclose said switch being configured so that said motor or current does not pass through the switch contacts during operation of the motor". It is bizarre that the examiner admits in this rejection the exact position that is maintained in the rejection of claim 1.

This rejection is also bizarre in that the examiner states in paragraph 18 that applicants' arguments with respect to the rejection of claims 1 and 10 under 35 U.S.C. 102(b) have been considered and are persuasive and therefore the rejection has been withdrawn. It is bizarre because this new ground of rejection is made in view of the same patent about which arguments were considered to be persuasive. The only difference between the rejection of this office action and the prior one is the change of the light touch switch from 28 to 30 and the parenthetic expression "mechanically coupled through contact with microswitch 78. It is unfathom how changing switch 28 to 30 can make any difference. Regardless of whether one uses the switch assembly 28 or a switch button device 30, it is the same physical structure that is described in the specification with specificity. There has always only been one actual switch device and that is the microswitch device 78. The patent specification at column 4, lines 46-49 states that "switch assembly 28 comprises front mounting assembly 62, microswitch device 78, switch button device 30 and spring device 82. At paragraph 4, lines 55-58, in connection with Fig. 4b, it describes a "switch button device 30 comprises a ring-like portion 86 and a lever portion 88 which is cantilevered from said ring-like portion 86 at approximately 85°." The switch button device 30 is not a switch. It is just a mechanical linkage. The switch of Crutchfield is the microswitch device 78 and microswitch device 78 does have motor current flowing through it. Therefore Crutchfield continues to fail to anticipate, teach or suggest claim 1.

The discussion with regard to the actual operation of Crutchfield that was set forth in the prior response is still highly relevant and is repeated:

More particularly, the abstract states that a rectifier device is operatively connected to receive the AC voltage from the wall outlet and provide a DC output to the DC motor. A switch assembly is operatively connected between the output of the rectifier device and the DC motor. Moreover, at column 4, lines 27-45, describes the circuitry of Crutchfield and more particularly at lines 34-40 it states that "the 115-120 volt AC from the wall outlet is provided through electrical cord 20 to the rectifier means 76 which then provides the 115-120 volt DC for the DC motor. Microswitch device 78 which is slidably received in a predetermined portion of front mounted assembly 62 is operatively connected between the output of the rectifier means 76 and the DC motor 26." Not only that, column 7, lines 40-42 states a switch assembly is operatively connected between said output from said rectifier means and an input to said 115-120 volt DC motor.

While there is no specific circuit diagram, there can be no ambiguity from these recitations that the microswitch device 78 is connected in circuit between the motor and the rectifier and therefore the motor current necessarily flows through the switch which is totally opposite from the language of the claim.

It is not surprising that Crutchfield would have his switch in circuit with the DC motor because it is a simple small electrical erasing machine for presumably erasing ink or pencil marks from writing materials such as paper or the like and there is very little load being applied to the eraser motor. For all of these reasons, it is believed that claim 1 should be allowed and such action is respectfully requested.

Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crutchfield in view of Peot. While the examiner admits that Crutchfield does not disclose said switch being configured so that said motor current does not pass through the switch contacts during operation of the motor, it is contended that Peot somehow supplies this basic deficiency. It does not.

Peot has an on/off switch 31 shown in Fig. 2. Peot also has a cord 16 that has conductors 18 and 19 that are input to the circuitry of Fig. 2, the cord being shown in Fig. 1 with the plug for plugging the cord into an AC electrical source. Electrical line 18 extends to and drives the motor 20 through any one of the three legs that are parallel to one another as shown in Fig. 2, namely, the leg containing the switch 36 or the leg containing switch 38 or the leg containing switch 34 which is in series with the speed control module 32. The on/off switch 31 can be operated by closing anyone of these three switches 34, 36 or 38. While crystal clear to any one of ordinary skill in the art, it is also described in the specification at page 6, lines 56-58: "Thus, closure of the switch 34 activates motor 20 in a direction determined by switch 26 at a speed determined by the speed control circuit 32" and at lines 59-64 "a separate on/off switch 36 is provided in parallel with the series combination of speed control circuit 32 and control circuit 34. Thus, upon closure of switch 36, motor is activated to rotate at a fixed speed in the direction determined by the setting of armature 30 of switch 26." The specification also states at lines 64-68 "a separate, bypass control switch 38 is provided as a safety measure for the speed control circuit 32 and the switch 34, to provide a means for turning the motor on and off in the event of failure of either the speed control circuit or the control

switch 34." Anyone that has any knowledge of electrical circuits will realize that this statement is incorrect and that as long as one of the switches 34 or 36 is closed, power will be applied to the motor and opening or closing switch 38 would have no effect on the operation of the motor. What is clear from this discussion is that regardless of which of the switches 34, 36 or 38 is used, motor current originating at line 18 does in fact flow through the switch and therefore neither Crutchfield nor Peot, applied singularly or in combination, teach or suggest the apparatus defined in claim 10. Reconsideration and allowance of this claim is respectfully requested.

The dependent claims necessarily incorporate the subject matter of the independent claims from which they depend and in addition add other features and/or functionality that are not found in the independent claims and for this reason the dependent claims are also believed to be in condition for immediate allowance.

Respectfully submitted,

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